IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6563 OF 2003

Shivdas Vasudeo Pille . .. Petitioner.

vs.

Manoj Sham Palekar

& Ors. .. Respondents.

Mr. V.P. Sawant for petitioner.

CORAM : S.U. KAMDAR, J.

DATE : 12th December, 2005.

P.C.:

. Impugned order is passed by the Additional District Judge, Pune in Election Petition No. 3 of 2002. On the material and evidence on record the trial Court has come to the conclusion that the petitioner did not file any objection demanding recounting before returning officer. However, an application for recounting of the votes dated 3.12.2001 was filed with Lonawala Municipal council only on 5.12.2001. Relying upon the judgment of the Apex Court in the case of Satyanarain Dudhani vs. Uday Kumar Singh and others reported in AIR 1993 SC 367, the Additional District Judge has dismissed the

election dispute. The learned counsel for the petitioner has contended that there is an infirmity in the order passed by the Additional District Judge because in fact on the very same day when counting was in progress an application for recounting being exhibit B to the petition was prepared and it is dated 3.12.2001. It is his contention that the returning officer did not accept his objection on 3.12.201. However from the writing at the bottom of that application it is clear that it is received only on 5.12.2001 (wrongly typed as 5.11.2001) by the Dispatch Clerk, Lonavla Municipal Council. However, the learned counsel's contention is that the objection was raised and the application was made before the Returning Officer but he did not give any heed to the same. The learned counsel has relied upon page 3 of the election dispute. However, after perusing the said page and the application, it is clear that no application was made at all before the Returning Officer on 3.11.2001 and on the same day the election was also declared. In that view of the matter, there is no infirmity in the order passed by the Additional District Judge in election dispute no. 3 of 2002 and accordingly the same is upheld and the petition is dismissed. No order as to costs.